IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1354 OF 2004

India Tourism Development
Corporation Ltd., ... Petitioner
vs.

State of Maharashtra & ors. ... Respondents

Ms. U. K. Srivastava for petitioner
Mr. G. W. Mattos AGP for respondent

CORAM: D. G. KARNIK **J.**

DATE:7/6/2006

P.C.:

1. Heard learned counsel for the parties.

2. The issue involved in this petition is: whether the petitioner, which is a Corporation owned by the Central Government is entitled to sell foreign liquor at the arrival lounge of the International Airport at Bombay to the inbound passengers without obtaining a vendor' slicence under Section 34 of the Bombay Prohibition Act, 1939 (for short 'the Act' .)

3. Section 12 of the Act, provides that no person shall manufacture import, export, transport , sell or buy liquor, without a valid licence. Section 34 to the Act permits the State Government, by Rules or an order in writing, to authorize an officer to grant

vendor's licence for sale of foreign liquor and prescribes conditions of licence. The State Government / its officer duly authorized officer is thus empowered to grant vendor's licence to sell foreign liquor in the State of Maharashtra. Section 139 of the Act empowers the State Government to exempt any person or institution or any class of persons or institutions from all or any or all provisions of the Act or from all or any of the rules, regulations or conditions of licence, subject to such conditions as the State Government may impose.

4. Learned counsel for the petitioner invited my attention to the Notification issued by the Government of Maharashtra on 12th February 1969 under Section 139 of the Act and contended that in view of the said Notification the petitioner is not required to obtain a vendor's licence. The Notification dated 12th February 1969 exempts the petitioner from the provisions of section 12(d) of the Act, in so far as it relates to duty free liquor and sale thereof at its shop to in-transit and outgoing passengers. The exemption granted by the Notification is for sale of the liquor only to the in- transit and outgoing passengers. Movement of in-transit and outgoing passengers, as per rules, is restricted to the departure lounge. The petitioner is thus entitled to sell liquor to the in-transit and outgoing passengers in the departure lounge without obtaining vendor's licence. The petitioner has accordingly opened a shop in the departure lounge and is selling liquor to in- transit and outgoing passengers.

5. In addition, the petitioner has also opened another shop in the arrival lounge and is selling therein liquor to inbound passengers, arriving in India. The Notification does not exempt the petitioner from selling the liquor to the in- bound passengers arriving in India. The exemption granted to the petitioner under the notification dated 12th February 1969 is not absolute but is restricted to the sale of liquor to the in- transit and outgoing passengers only. The petitioner cannot take advantage of the notification dated 12th February 1969 and sell liquor to in-bound passengers arriving in India in the arrival lounge. The petitioner is required to apply and obtain licence under Section 34 of the Bombay Prohibition Act if it intends to sell liquor to the in- bound passengers on their arrival in the arrival lounge.

6. There is no merit in this petition, which is hereby dismissed summarily.

(D. G. KARNIK **J**)